



Department of Planning, Housing, & Community Development

Mayor, Richard C. David

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: April 7, 2014
SUBJECT: 188 Hiner Road; Use Variance
TAX ID #: 145.15-1-2
CASE: 2014-09
COPIES: A. Sosa, T. Costello, W. Berg (District 7), File

A. REVIEW REQUESTED

This application would allow a telecommunications facility to operate in the R-2 District. The applicant has leased the property at 188 Hiner Road to construct a 150' freestanding telecommunications tower. This use is not permitted in the R-2, One and Two Unit Dwelling District, and the applicant requires a use variance to operate at the subject site.

In granting a use variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Economic deprivation**: That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;
- (b). **Unique circumstances**: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character**: That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger public health or safety, or substantially diminish or impair property values in the neighborhood.
- (d). **Self-created hardship**: That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. ADDITIONAL REVIEWS

239 L&M Review is required for this project due to its proximity to the Greater Binghamton Health Center.

C. SITE REVIEW

188 Hiner Road is located on a parcel with an elevation of over 1,000 feet. The property is located in a heavily wooded area, with one residential property on the 9.92 acre site. There is an existing tower located to the northwest of the proposed new tower, within a 60' x 50' chain link enclosure. Within the chain link fence are a generator, propane tank, and a utility structure for existing equipment. No other structures, lie within a 180' radius of either tower.

Land use in the vicinity of 188 Hiner Road is low-density, single-family residential and wooded vacant lots. The Greater Binghamton Health Center is also in the vicinity.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

37 N. Windy Hill Road: In 2008, the Planning Commission approved a special use permit to New Cingular Wireless PCS, LLC D/b/a AT&T Mobility for the modification of an existing telecommunications facility.

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **UNLISTED** Action. The Planning Commission may be the lead agency to determine any environmental significance.

Motion to determine what type of action:

- a. Type I
- b. Type II
- c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance. (See EAS Part 2 & Part 3)

	NO, OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	X	
Will the proposed action result in a change in the use or intensity of use of land?	X	
Will the proposed action impair the character or quality of the existing community?	X	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	X	

Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	X	
Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	X	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	X	
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	X	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	X	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	X	
Will the proposed action create a hazard to environmental resources or human health?	X	

E. STAFF FINDINGS

Planning Staff has made the following findings:

- 1. The Zoning Board of Appeals must determine that under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence.**
- 2. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.**
- 3. The Zoning Board of Appeals must determine whether the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.**
- 4. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.**

G. ENCLOSURES

Enclosed is a copy of the plans and site photographs.